

**Zoning Board of Adjustment
1200 Mountain Ave., Middlesex, NJ 08846
Agenda Meeting Minutes
December 3, 2014
7:30 PM**

1. Call to Order

Chairperson DiMura called the meeting to order at 7:31 p.m.

2. Open Public Meeting Act Statement

Chairperson DiMura read the Open Public Meeting Act Statement.

3. Roll Call

Upon the call of the roll the following members were present John Anello, Ron DiMura, Joseph McNulty, Anthony Vietri, Phil Lopa, Anthony Thompson, and Paul Woska.

Also present was Board Attorney Ms. Joan Dowling and Uzo Ahairakwe, Board Engineer.

4. Minutes

Member Lopa made a motion to approve the November 5, 2014 meeting minutes, seconded by Member Thompson. Vote: All in favor. Motion passed.

5. Old Business

**Z2014-01
McDonald's
125 Bound Brook Rd.
Block 6 Lot 2 & 2A**

Mr. Marmora stated that he represents McDonald's and he previously concluded the public portion of the testimony and now would do his summation.

Mr. Marmora confirmed that the Board received a response from the Police Department regarding the concerns raised at a previous meeting.

Chairperson DiMura confirmed that all the Board members had seen the letter from the Police Department.

The letter from the Police Department was entered as Exhibit A912032014, Chairperson DiMura read the letter out loud.

Member Thompson questioned if there had been any correspondence with Acme regarding the changes.

Mr. Marmora stated that he had been in contact with Levin Management, that the conditions would have to be approved by Acme, if Acme doesn't approve the conditions McDonald's would have to return to the Board.

Ms. Dowling stated to the Board that they are voting on the specific site plan with the changes requested by the Board.

Mr. Marmora used the drainage agreement as a condition of approval, if Acme doesn't agree then McDonald's would need to return to the Board.

Member McNulty stated that McDonald's has addressed the concerns that the Board has had.

Mr. Marmora stated that McDonald's has addressed the site issues with pedestrian safety by extending the bollards at the Acme, raising speed humps, extending the sidewalk.

Chairperson DiMura stated that at a previous meeting McDonald's agreed to restriping and sealcoating of the entire parking lot.

Ms. Dowling clarified the plans that the Board were voting on; Exhibit A710012014 with the revision date of 9/30/14.

Member Woska stated that this McDonald's was similar to the one he had stopped at while in Indiana.

Chairperson DiMura opened the meeting to the public.

Mr. Howortiz, 2 Kalman Ct, thanked the Board for addressing his concerns with the Police Department.

There being no more public comments Chairperson DiMura closed the public portion for this applicant.

Mr. Marmora thanked all the volunteers on the Board.

Mr. Marmora stated that this was a D3 variance, a conditional use because it has to be 1,500 ft from another Limited Service Restaurant.

Mr. Marmora stated that McDonald's has addressed the concerns from the Board regarding:

- Sign plan (was now conforming, variance for signs no longer needed)
- Handicapped Parking space would be moved

- Bollards would be added
- Speed humps(gradual)
- Drainage connection
- Title reports would be done on both properties
- Maintenance agreement
- Parking lot would be sealcoated and restriped
- All outside lights would match

Mr. Marmora summarized the proofs that were previously stated by the Planner, such as ratable for the town, creation of jobs, cleaning up the property and having a new landscape plan.

Mr. Marmora requested that the Board grant approval for this project.

Chairperson DiMura stated that Member Woska had listened to the cd's and will certify that he has done so.

Ms. Dowling stated that the Board should consider the use variance first then the site plan and have each member state whether they are for or against and their reasons.

Mr. Marmora reviewed the parking waiver regarding the size of the parking spot, where 10 x 19 is required and 10 x 18 is requested by the applicant.

Chairperson DiMura asked the Board to first discuss the conditional use.

Member Lopa stated that he was not in favor of the project, that this was too close to the Dunkin Donuts and had concerns with the traffic.

Member Vietri questioned the distance from the Dunkin Donuts, and he did not see a problem with granting this variance.

Member McNulty stated that he was in favor of granting the variance but had concerns with the closeness to the Acme.

Member Thompson had concerns with the proximity and stated that the ordinance was there for a reason.

Member Anello had no concerns with the proximity to the Dunkin Donuts.

Member Woska had no concerns with the proximity to the Dunkin Donuts

Chairperson DiMura asked each member to comment on the site plan with the bulk variances.

Member Woska stated that he was satisfied with the site plan, two drive throughs work well, was in favor of the parking lot being resurfaced and restriped.

Member Anello stated that he had no objections to the site plan, that McDonald's had been cooperative with the Board and made the changes to the site plan that were requested regarding the pedestrian safety. He was in favor of the parking lot being resurfaced and restriped.

Member Thompson stated that he was not in favor of this project and believe it would impact the area in a negative way.

Member McNulty stated he did like the design and was concerned with the closeness between the Acme and the McDonald's.

Member Vietri stated that the applicant had been cooperative with the changes to address the concerns of the Board.

Member Lopa stated that he still had issues with the pedestrian safety, and overutilization of the lot and McDonald's would have a negative impact.

Chairperson DiMura stated that McDonald's made improvements to the site, currently underutilized and would be a benefit to the Borough.

Ms. Dowling asked if there would be any other conditions or changes other than the sealcoating and consistent lighting.

Ms. Dowling asked the Board to review the waivers for this site plan.

The Board reviewed the waiver for the parking spaces, 149 parking spaces are required by ordinance and 142 parking spaces are proposed. The Board Engineer had no objection. Vote: Member Lopa opposed, Members Anello, Woska, DiMura, McNulty, Vietri, Thompson voted for the waiver. The Board granted this waiver.

The Board reviewed the waiver for the size of the parking spaces, 10 x19 is required by ordinance and 10 x 18 is proposed. The Board Engineer had no objection. Vote: Member Lopa opposed, Members Anello, Woska, DiMura, McNulty, Vietri, Thompson voted for the waiver. The Board granted this waiver.

The Board reviewed the waiver for the length of the driveway, 20ft length driveway is required by ordinance and 17ft driveway is proposed. The Board Engineer had no objection. Vote: Member Lopa opposed, Members Anello, Woska, DiMura, McNulty, Vietri, Thompson voted for the waiver. The Board granted the waiver.

Member Anello made a motion to grant the request of the applicant to allow the D3 variance in regards to the construction of the limited service restaurant, approving site plan as shown by Exhibit A7 with the conditions of: having the entire parking lot seal coated and restriped, drainage to the east in Block 6 Lot1B having a cross parking agreement with Levin, outside lighting will be consistent, seconded by Member McNulty. Vote: Member Anello-yes, Member Woska- yes, Chairperson DiMura-yes, Member

McNulty-yes, Member Vietri-yes, Member Lopa- no, Member Thompson- no. Motion passed.

Member Thompson made a motion to have a 5 minute recess, seconded by Member Vietri. Vote: All in favor.

Upon returning from recess roll call was taken with all members present.

Z2014-04
Praso 796 William, LLC
796 William St.
Block 319 Lot 19

Mr. Edward Johnson Jr. stated that he is still representing the applicant.

Mr. Gazzale would explain the requested changes.

Mr. Gazzale stated on the westerly side of the property the driveway was eliminated, man door was added to the building, privacy slats would be added in the 6ft high fence, front porch and walk would remain, there would be 4 parking spaces, and a handicapped sign marking the handicapped spot.

Mr. Gazzale explained the lighting plan on sheet 2 of the plans.

Member Anello questioned if the stones would be taken out.

Mr. Ahairakwe requested that this area be clarified with shading on the plan.

Member Anello questioned the six containers and the location at the site, closeness to the building in case there was a fire.

Mr. Gazzale stated that the applicant previously testified that there would not be combustible material stored.

Member Anello had concerns stating that a variance stays with the property for life, if the applicant sells to another person they would be able to have containers at the site.

Mr. Gazzale presented Exhibit A2112032014 which shows 2 containers moved to the side of the property to allow for safety vehicles to access the other 4 containers.

Member Vietri questioned if Mr. Gazzale had reviewed the changes with the property owner.

Mr. Gazzale stated that the property owner knows about the changes.

The Board Engineer, Mr. Ahairakwe stated that this was his first time reviewing the changes site plan Exhibit A2112032014.

The Board reviewed the changes with the driveway.

Mr. Ahairakwe stated his concerns with the turning radius for trucks.

Mr. Gazzale explained how the trucks would be moved and that the employees park outside the gate.

Member Anello stated his concerns with the drawing not drawn to scale.

Chairperson DiMura was in favor of allowing the Board Engineer to have time to review the changes and vote on December 17, 2014.

Member Lopa questioned if the Board could vote and make the site plan subject to the Engineer's report.

Ms. Dowling advised the Board to have the specific site plan to know exactly what they are voting on.

The Board decided to have the Engineer review the changes.

Member Anello questioned the parking spaces, placement of the garbage container, if the fencing was being repaired on the north side and replaced on the easterly side.

Chairperson DiMura questioned if any of the Board Members had visited the site since the last meeting.

Member Anello, Chairperson Dimura, and Member Thompson stated that they had visited the property separately.

Mr. Fisk testified as to the reasons the Board should grant the c and d variance and grant the waiver of the 2 shade trees.

Mr. Fisk gave the reasons that the c variances that dealt with size of the properties should be granted.

Ms. Dowling stated that these variances has been previously granted and did not believe it was required to be granted again.

Mr. Fisk gave the reasons that the d variance that dealt with the use of the containers should be granted.

Chairperson DiMura opened the meeting to the public for questions, there being no public present, he closed the public portion of the meeting.

Mr. Johnson and the Board agreed that the applicant will return to the Board on December 17, 2014.

Chairperson DiMura opened the meeting to the public, there being no public present, he closed the public portion of the meeting.

The matter was adjourned to December 17, 2014.

6. Subcommittee Formation to Review Bids

Chairperson DiMura, Member Thompson and Member Anello will be on the subcommittee.

Member Lopa stated the Member Thompson's term would be expiring at the end of 2014.

Chairperson DiMura asked Member Vietri to be on the subcommittee.

The Subcommittee will now be Member Vietri, Member Anello and Chairperson DiMura.

7. Draft of the 2014 Year End Report

Chairperson Dimura asked the Board Members to review the draft of the 2014 Year End Report prepared by the Board Clerk, Karen Wick. Chairperson DiMura asked that any changes or suggestions be turned in by December 16, 2014.

There being no further business Member Thompson made a motion to adjourn the meeting at 9:46pm,seconded by Member Anello. Vote: All in favor. Meeting adjourned.

Secretary

Clerk